

MEMO ENDORSED

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

CHEVRON CORPORATION,

Plaintiff,

v.

STEVEN DONZIGER, THE LAW OFFICES
OF STEVEN R. DONZIGER; et al.,

Defendants.

Case No. Case No. 1:11-cv-00691-LAK

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DONZIGER'S RECUSAL MOTION

Memorandum Endorsement

Chevron Corp. v. Donziger, 11 Civ. 0691 (LAK)

The motion is denied. *See Chevron Corp. v. Donziger*, 783 F. Supp.2d 713 (S.D.N.Y. 2011), *mandamus denied sub nom.*, *Chevron Corp. v. Naranjo*, Nos. 11-1150-cv(L), 11-1264-cv(con), 11-2259-op(con), 2011 WL 4375022 (2d Cir. Sept. 19, 2011).

The new suggestion that the Court of Appeals' decision, which vacated the preliminary injunction but denied the LAP Representatives' petition for a writ of mandamus requiring recusal, somehow nevertheless warrants recusal is untimely. Movants waited five months after the Court of Appeals decision before raising it for the first time in this motion. During that period, they actively litigated motions in this case, both defensively and offensively (DI 365-366, DI 372-74, DI 376), without raising the question. Neither the delay nor their conduct was consistent with raising the issue "as soon as the facts on which it is premised are known to the parties." *See United States v. Bayless*, 201 F.3d 116, 127 (2d Cir.), *cert. denied*, 529 U.S. 1061 (2000). Even if the suggestion were timely, its lack of merit would be apparent.

SO ORDERED.

Dated: February 24, 2012



Lewis A. Kaplan
United States District Judge